

Resolution No. ZSR-21-21 of the Suffolk County Planning Commission
Pursuant to Sections A14-14 to thru A14-25 of the Suffolk County Administrative Code

- WHEREAS, pursuant to Sections A14-14 thru A14-25 of the Suffolk County Administrative Code, a referral was received on July 2, 2021 at the offices of the Suffolk County Planning Commission with respect to the application of **"TBOM BR-1"** located in the Town of Brookhaven
- WHEREAS, said referral was considered by the Suffolk County Planning Commission at its meeting on **August 4, 2021**, now therefore, Be it
- RESOLVED, that the Suffolk County Planning Commission hereby approves the staff report, as may be amended, as the report of the Commission, Be it further
- RESOLVED, pursuant to Section A14-16 of the Suffolk County Administrative Code and Section 239-m 6 of the General Municipal Law, the referring municipality within thirty (30) days after final action, shall file a report with the Suffolk County Planning Commission, and if said action is contrary to this recommendation, set forth the reasons for such contrary action, Be it further
- RESOLVED, that the Suffolk County Planning Commission **Approves** of the change of zone referral on the Brookhaven Town Board's own motion (TBOM BR-1, File # 2012-012), on approximately 137 acres of land east of the Town of Brookhaven landfill from A 1 Residence and L1 Light Industry to all L1 Light Industry with the following conditions and comments.

Condition:

1. In recognition of the potential Environmental Justice designation by the NYS DEC, the Town of Brookhaven shall prohibit uses in the new L1 Industry designated surplus land of approx. 85 acres east of the town landfill in Yaphank that would normally be permissible by Brookhaven Town Board Special Permit. Included uses are anaerobic digesters, electric generating facilities, airports, and adult uses. Furthermore, the Brookhaven Town Board shall place a covenant on the surplus land that no part can be used for "waste management" of any type.

Reason: The potential designation of the subject site as within an Environmental Justice area, makes certain limitations on the uses within the proposed industrial surplus land warranted. It has been noted by the Suffolk County Planning Commission that the Brookhaven Landfill, the Long Island Compost Corp., and the Anaerobic Digester at LI Compost Corp/Great Gardens LLC are already concentrated in this area. Also recognizing this, the Town of Brookhaven has considered prohibiting uses that would normally be permissible by Brookhaven Town Board Special Permit. Regarding "waste management" of any type: waste management refers to the various schemes to manage and dispose of wastes. It can be by discarding, destroying, processing, recycling, reusing, or controlling wastes.

2. In recognition of the potential Environmental Justice designations in the area by the NYS DEC, the Town of Brookhaven shall not approve the change of zone from A1 Residential and L1 Industry to all L1 Industry on the subject surplus property until the method of wastewater disposal for the surplus land has been investigated and agreed upon with the Suffolk County Department of Health Services.

Reason: The potential designation of the subject site as within an Environmental Justice area, makes the consideration of the discharge of industrial waste water to the ground warranted at the earliest possible moment. According to the Town Environmental Assessment Form referred to the Suffolk County Planning Commission by the Brookhaven Town Board (page 3 item 20), that "it should be noted that the area to be re-zoned as well as the surplus area is adjacent to the landfill which has historically accepted various types of waste material and been subject to various orders by NYSDEC related to remediation." The future uses on the proposed surplus land should not compound any existing or potential ground water issues in the area.

Comments:

1. The Brookhaven Town Board may wish to consider incentivizing within the surplus land area "Clean Energy" that is 100% pollution-free. Clean energy, often referred to as "renewable energy", comes from natural sources or processes that are naturally replenished and virtually inexhaustible; sources like the sun, wind and water. Solar farms, wind turbines, geothermal, fuel cells, and battery storage are examples of clean energy technology. While fossil fuel based electric generating facilities should be prohibited in this Environmental Justice Area, the term could be amended to allow solar farms, fuel cells and wind turbines or other clean energy industry.
2. The Town of Brookhaven may wish to contemplate, in order to limit potential issues related to Environmental Justice, placing performance standards on the approval of the future uses within the surplus land area. The "metrics" could be established on the impacts of the as-of-right use of a residential subdivision of approximately 119 lots (theoretical yield). Thus, the motor vehicle trip generation, waste water discharge, noise, etc. can be set and no action within the surplus land area would be permitted to generate any impact greater than the former as-of-right use of the property may have produced.
3. The Brookhaven Town Board is advised to contact the Suffolk County Department of Public Works for investigative analysis as to access and installation of any improvements and/or traffic controls along Horse Block Road (CR 16) and Yaphank Avenue (CR 21). A Traffic Impact Assessment (TIA) prepared by the town would be useful in providing necessary data on trip generation and turn movements to, from and around the surplus land.
4. Considering that there are still large areas of relatively undisturbed woodland within the targeted change of zone area and that the boundary to the Suffolk County Pine Barrens Zone is across Yaphank Avenue, large blocks of undisturbed contiguous open space should be proximate to the Pine Barrens. In accordance with best management practice, and in recognition of the sentiment of the Town of Brookhaven Carmans River Management Plan, no more that 65% of the overall change of zone area should be cleared of naturally occurring vegetation.
5. The Brookhaven Town Board should review the Suffolk County Planning Commission publication on Managing Stormwater-Natural Vegetation and Green Methodologies and incorporate into any proposal within the surplus land area, where practical, design elements contained therein.

<https://www.suffolkcountyny.gov/portals/0/formsdocs/planning/SCPlanningCommission/2015/Managing%20Stormwater.pdf>

6. The Brookhaven Town Board should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to energy efficiency and incorporate where practical, applicable elements contained therein on any proposed use of the surplus land area. Large industrial buildings should be designed to accommodate rooftop solar during initial occupancy or in the future.

<https://www.suffolkcountyny.gov/portals/0/formsdocs/planning/Publications/SCPCguidebk12r%206-30-20.pdf>

7. The Brookhaven Town Board should be encouraged to review the Suffolk County Planning Commission Guidebook particularly with respect to public safety and universal design and incorporate where practical, applicable elements contained therein.

8. Recognition of the Suffolk County designated Prime Farm Soils occurring on site is warranted and an effort to incorporate options for community gardening or other appropriate uses of the farm soil should be included in planning amenities for the surplus land.

Town of Brookhaven, TBOM BR-1

COMMISSION ACTIONS OF APPROVED RESOLUTION

AYE ABSTAIN RECUSED ABSENT

ANDERSON, RODNEY – At Large				X
CASEY, JENNIFER - Town of Huntington	X			
CHARTRAND, MATTHEW - Town of Islip				X
CHU, SAMUEL – Town of Babylon				X
CONDZELLA, JOHN – Town of Riverhead	X			
DOTY, DAVID – Town of East Hampton	X			
ESPOSITO, ADRIENNE - Villages over 5,000		X		
FINN, JOHN - Town of Smithtown				X
FLYNN, DANIEL – Town of Southampton	X			
GALLE, ELIZABETH, - Town of Shelter Island				X
GERSHOWITZ, KEVIN G.- At Large	X			
KAUFMAN, MICHAEL - Villages under 5,000	X			
KELLY, MICHAEL – Town of Brookhaven			X	
KITT, ERROL – At Large	X			
MCCARTHY, THOMAS, - Town of Southold	X			

Motion: Commissioner Flynn

Present: 10

Seconded: Commissioner Gershowitz

Absent: 5

Voted: 8

Absent: 5

Recused: 1

Abstained: 1

DECISION: Approved